

1 MR. ADAMS: Hold on just a second.

2 MR. ASHENDEN: Just to make sure what I'm
3 talking to here.

4 MR. ADAMS: I thought that was page 6.

5 MR. ASHENDEN: Maybe line 16?

6 MR. ADAMS: Yes.

7 MR. ASHENDEN: Okay, yes.

8 MR. ADAMS: What was the outcome of that
9 proceeding?

10 MR. ASHENDEN: I wasn't directly involved
11 in that proceeding, so I couldn't answer that
12 question.

13 MR. ADAMS: Just a second.

14 We have a records request for some kind of
15 documentation on what the outcome of that proceeding
16 was.

17 MR. PERKINS: I'm sorry, what was the
18 reference again?

19 MR. ADAMS: There was a Delaware
20 proceeding that he addresses in line 16 of page 6 of
21 his direct testimony.

22 MR. PERKINS: Okay.

1 MR. ADAMS: Why would this issue not best
2 be addressed as part of an industry collaborative or
3 as part of a generally applicable proceeding before
4 the Virginia commission?

5 MR. ASHENDEN: As opposed to this
6 two-party?

7 MR. ADAMS: Yes. I mean, it does seem to
8 have a bearing on other parties, other attachers.

9 MR. ASHENDEN: From our perspective, there
10 are two major players in addition to Cavalier. One
11 of those players has already -- we have already gone
12 through the process of dealing with that, and the
13 only real obstacle in the process at this point is
14 Verizon.

15 MR. ADAMS: Those two major players?

16 MR. ASHENDEN: Would be Verizon and the
17 power company.

18 MR. ADAMS: Okay. Are you aware of any
19 other states other than Virginia where a process
20 similar to the one proposed by Cavalier has been
21 developed and deployed?

22 MR. ASHENDEN: I know that in other

1 states, and also in Virginia, that this process has
2 been used in certain aspects.

3 MR. ADAMS: Has it ever been arbitrated
4 before?

5 MR. ASHENDEN: Arbitrated, I don't know
6 the answer to that.

7 MR. ADAMS: Adopted as part of an
8 arbitration?

9 MR. ASHENDEN: I'm not sure.

10 MR. ADAMS: Has it ever been adopted as
11 part of an interconnection agreement itself?

12 MR. ASHENDEN: I don't know. I'm not on
13 the legal side.

14 MR. ADAMS: Okay. Are you aware of any
15 states where -- you just said you weren't aware of
16 any interconnection agreements, so I guess you
17 wouldn't be aware of any interconnection agreements
18 that Cavalier was a party to that had adopted this.

19 MR. ASHENDEN: No.

20 MR. ADAMS: On page 11, you mention the
21 negotiations where Verizon was the lone holdout. I
22 believe it was page 11.

1 MR. ASHENDEN: On my initial or --

2 MR. ADAMS: I think it was your direct. I
3 could have the page wrong. I do have the page
4 wrong.

5 Well, you previously mentioned that
6 Verizon was the lone holdout. What companies
7 participated in that?

8 MR. ASHENDEN: In the most recent times,
9 it would be Virginia Power, Cox Communications, KMC.
10 I'm trying to think if there's any others. I
11 believe that's it.

12 MR. ADAMS: Was there any written
13 agreement that resulted in those agreements between
14 those parties and Cavalier?

15 MR. ASHENDEN: These agreements were
16 actually as a result of Virginia Power negotiating
17 with those pole attachers --

18 MR. ADAMS: And Cavalier?

19 MR. ASHENDEN: Well, the -- are we okay to
20 talk about this?

21 MR. PERKINS: Yes.

22 MR. ADAMS: I'm sorry, is this --

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1 MR. PERKINS: I think as a general matter,
2 he can discuss it. There is a confidentiality
3 restriction on the details, so we'll just have to --

4 MR. ASHENDEN: Hopefully I'm okay to talk
5 about the details on that, but I wasn't sure.

6 So anyhow, the agreement that was made as
7 a result of a federal court case dictated that
8 Virginia Power would negotiate with pole attachers
9 to establish a more efficient single contractor
10 process with companies such as the cable companies,
11 Verizon and any other parties that are involved in
12 it, to try to come up with a more efficient process.

13 It was intentional -- it was defined, I
14 should say, that Cavalier wouldn't be directly
15 involved in it.

16 MR. ADAMS: Okay. You've also talked
17 about a process that was adopted in eastern
18 Virginia. Is that the same process or is that a
19 separate agreement?

20 MR. ASHENDEN: No, that's the same
21 process.

22 MR. ADAMS: Okay. And I guess that does

1 away with my question number 6.

2 And I'm not sure that you can answer this,
3 so just tell me if you can't. What are the
4 requirements when you attach to the power company's
5 poles under this agreement? That may be too broad
6 for you to --

7 MR. ASHENDEN: That is kind of broad. I'm
8 not sure.

9 MR. ADAMS: There are no specific
10 restrictions or notification?

11 MS. NEWMAN: Can I ask a point of
12 clarification?

13 MR. ADAMS: Sure.

14 MS. NEWMAN: This agreement, is this the
15 one that was attached to your testimony?

16 MR. PERKINS: No, this is one that was
17 superseded by that agreement.

18 MS. NEWMAN: Okay.

19 MR. PERKINS: So really we shouldn't get
20 into the details of that. If it would help for
21 purposes of the record, it did not change specific
22 attachment criteria, such as the NESC, the NEC, blue

1 book things that were discussed earlier. I don't
2 know if that's where you were going or not.

3 MR. ADAMS: I'm actually kind of
4 interested in what effect it might have on other
5 parties that were on the pole, and I don't know --

6 MR. PERKINS: The thrust --

7 MR. ADAMS: I didn't want this to turn
8 into a fishing expedition.

9 MR. PERKINS: Yes, and I hesitate to
10 characterize it too much, but it generally involved
11 an improved process of coordinating and achieving
12 make-ready work, I think is the best way.

13 MR. ADAMS: Okay. In your -- I think it
14 was in your rebuttal testimony, you dispute the
15 assertion that you rarely use this, that you have
16 used it considerably in the past. You also make a
17 mention of -- and correct me if I'm wrong. My
18 understanding was that in some cases it has taken
19 four to five years to complete a series of pole
20 attachments? Did I understand that correctly when I
21 read it?

22 MR. ASHENDEN: The process that we started

1 in building networks back in early 1999, it took
2 years to get to the point where we finally realized
3 that the process was so inefficient that it no
4 longer made sense to continue building until the
5 process improved.

6 MR. ADAMS: So you just --

7 MR. ASHENDEN: Which puts us to where we
8 are pretty much today, which is about four years
9 later, where we have permits that we would like to
10 proceed, if we could get everybody on board, with a
11 more efficient process.

12 MR. ADAMS: But are there particular
13 permits that -- I mean, I don't know quite how to
14 characterize this, because I'm not that familiar
15 with the mechanics of the process. Are there
16 particular poles, for instance, that you've been
17 trying to get onto for four or five years?

18 MR. ASHENDEN: There are definitely poles
19 out there that we wanted to get onto.

20 MR. ADAMS: Four or five years ago and
21 you're still not on?

22 MR. ASHENDEN: Still not on.

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1 MR. ADAMS: Are you still trying?

2 MR. ASHENDEN: In some cases we found
3 alternate paths and found other ways of providing
4 the connectivity. But --

5 MR. ADAMS: Typically how long has just
6 the make-ready process taken, in your experience?

7 MR. ASHENDEN: In my experience in those
8 2-1/2 years where we were vigorously applying and
9 attaching -- trying to attach to poles, the average
10 was 240 days.

11 MR. ADAMS: Okay. Have you experienced
12 similar delays in other states with other pole
13 owners, or with other pole owners?

14 MR. ASHENDEN: My responsibility as far as
15 building networks on poles was really only in
16 Virginia.

17 MR. ADAMS: Okay. I have one question at
18 the end that I'll pose to both of you, but I can
19 move on to Mr. Young.

20 You may have already addressed this in
21 talking about the SPOC, but are there interim steps
22 that can be taken in order to minimize the delay and

1 expense associated with the make-ready work?

2 MR. YOUNG: Interim steps --

3 MR. ADAMS: Something short of what
4 they're suggesting.

5 MR. YOUNG: I guess the thought is that
6 our license agreement that, you know, we've entered
7 into with Cavalier has defined time frames and what
8 the process is. When applications are given to us,
9 some of them are, you know, small, only a couple
10 poles, maybe another one could be a couple hundred
11 poles, you know.

12 And part of the thing that would make life
13 easier and better for both parties is that when
14 applications are given, especially with Cavalier to
15 come in, any CLEC comes in and dumps a whole bunch
16 of us at one time is number one, prioritizing, what
17 order do you want us to do them in, because you're
18 not the only customer we have.

19 MR. ADAMS: You're asking the CLEC to do
20 that.

21 MR. YOUNG: We're asking them, prioritize
22 them for us and we'll work them in that order for

1 you. There has been problems with, you know,
2 sometimes priorities change and then all of a
3 sudden, they want us to work someplace else.

4 MR. ADAMS: Right.

5 MR. YOUNG: So the fact that the process
6 would work better, I believe, when we get these
7 applications, chunk them up so that they're more
8 workable size, and prioritize them for us and don't
9 keep changing the priorities on us. And I believe
10 that, like everything else, you know, this whole
11 process of getting folks on the poles has evolved,
12 as other things have, and because we're doing it in
13 the SPOC now, because we use a database to track,
14 you know, the time intervals, we believe the system
15 is much more efficient now.

16 MR. ADAMS: Okay. Are you aware of any
17 similar proposals that have been made anywhere
18 Verizon operates?

19 MR. YOUNG: The only other proposal I'm
20 aware of is the same proceeding that they did in
21 Delaware. I was involved in that.

22 MR. ADAMS: You are familiar with that

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1 proceeding?

2 MR. YOUNG: Well, yeah. In the beginning
3 of it, yes. Well, I was a witness for it. Take
4 that back.

5 MR. ADAMS: On average, how many pole
6 attachment applications does Verizon process each
7 year?

8 MR. YOUNG: It's dropped substantially. I
9 think we had 77 in the time frame that we quoted
10 here this time, and I don't remember what the time
11 frame was with that. Part of the problem with that,
12 an application, like I said, could be large or it
13 could be small, so -- but the number has dropped
14 right now, substantially. And our average for
15 make-ready work has also dropped substantially since
16 we filed our 271 filings, even, just because there's
17 not a lot of the work coming in to us right now.

18 MS. NATOLI: Jeff, let me ask a question
19 in that regard. What would you say is the average
20 time frame now? I mean, if Cavalier were to file an
21 application today for pole attachment, how long do
22 you think it would take to get that?

1 MR. YOUNG: Well, you'd have the first 45
2 days, you know. And I want to make it clear that we
3 don't wait until the end of the 45 days.

4 MS. NATOLI: I was going to ask you that.

5 MR. YOUNG: We don't sit on them until the
6 end of the 45 days. There's a good many of them
7 that may take that long, because we review the
8 application and do the engineering to give them a
9 make-ready estimate so they can make an intelligent
10 decision whether they want to go that way or not.

11 But say 45 days. If there's modifications
12 to the pole that require increased size and
13 everything, we're obligated for a 60-day notice of
14 any other attachers on the pole to see if they want
15 to join in the process. So on top of that right
16 now, you know, our average is coming out to 69 or 70
17 days to complete make-ready work for someone.

18 MS. NATOLI: On top of that --

19 MR. MILLER: Is this within Virginia or
20 overall?

21 MR. YOUNG: This is Virginia, yes. Like I
22 said, we have the database that we track this in,

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1 and that's the number for the average we have right
2 now.

3 MR. ADAMS: Is that typical throughout
4 Verizon's footprint?

5 MR. YOUNG: No, that's a little short
6 right now. The -- there's many other places that
7 have defined time frames for pole replacements in
8 other states that are a lot larger than that.

9 MR. ADAMS: That takes care of the next
10 two questions, which leaves me with the one that I'm
11 going to direct to both of you. Are either of you
12 aware if Virginia is a state that can certify it
13 regulates actions to poles under 224.C? I guess
14 we'll take that -- Mr. Ashenden is shaking his head.
15 Mr. Young?

16 MR. LERNER: Meaning -- shaking his head
17 that he --

18 MR. ADAMS: We assume he's saying no.

19 MR. LERNER: That he doesn't know?

20 MR. YOUNG: I forget exactly what C is,
21 but under -- Virginia does not certify that they
22 regulate access to poles. It's an FCC -- it's

1 FCC-regulated to the best of my knowledge.

2 MR. LERNER: Mr. Ashenden, do you know
3 anything contrary to that?

4 MR. ASHENDEN: That's not my area, no.

5 MR. PERKINS: I think if you ask the
6 question a little bit differently, you might get an
7 answer, actually. Where did Cavalier have to go to
8 file a pole attachment complaint against Virginia
9 Power?

10 MR. ASHENDEN: A number of places. We
11 went to the state, federal --

12 MR. PERKINS: Never mind.

13 (Laughter.)

14 MS. NATOLI: That doesn't necessarily mean
15 it was the right place to go, though.

16 MR. PERKINS: I asked a worse question.

17 (Laughter.)

18 MS. NATOLI: Actually, that would be a
19 good thing to include in the briefs, though, whether
20 or not the parties for sure one way or another has
21 Virginia certify.

22 MR. ADAMS: I think that concludes my

1 questions.

2 MR. PERKINS: Could I tie up a loose end
3 very quickly with your record request?

4 MR. ADAMS: Certainly.

5 MR. PERKINS: That Delaware proceeding
6 that was referred to in Mr. Ashenden's testimony,
7 that was an interconnection arbitration that was
8 withdrawn as part of a settlement between Verizon
9 and Cavalier.

10 MR. ADAMS: Okay. Was there any action
11 taken on that particular issue?

12 MR. PERKINS: No.

13 MR. ALBERT: We called it death in
14 Delaware. It stopped. The people that wrote all
15 the testimony, and then it went away.

16 MR. PERKINS: It was withdrawn so this
17 proceeding could be initiated and then further
18 proceedings, if necessary, in individual states.

19 MR. ADAMS: Okay. Then I guess we can
20 withdraw that record request.

21 MS. NATOLI: Oh --

22 MR. ADAMS: If there is nothing there,

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1 unless you want to indicate that there is nothing
2 there.

3 MR. PERKINS: No.

4 MR. ADAMS: Then we will withdraw it.

5 MS. NATOLI: I don't have any questions.

6 MR. LERNER: All right. We'll adjourn for
7 the day and resume tomorrow at 9:00 a.m., although I
8 reserve the right to start at 9:15 if the game goes
9 extra innings.

10 (Laughter.)

11 MR. LERNER: Back on the record for a
12 moment to allow Verizon to move in Mr. Young's
13 testimony.

14 MS. NEWMAN: Please, thank you. Yes,
15 Verizon would move into evidence the direct
16 testimony of Alan Young dated September 23, 2003,
17 and marked as Verizon Exhibit 9. We would also move
18 into evidence the rebuttal testimony of Alan Young
19 dated October 9, 2003, and marked as Verizon Exhibit
20 10.

21 MR. LERNER: Admitted.

22 (Verizon Exhibits 9 and 10 received.)

1 (Whereupon, at 5:48 p.m., the hearing was
2 adjourned, to be reconvened at 9:00 a.m., on Friday,
3 October 17, 2003.)
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